

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

MATTHEW WIGGINS,

Plaintiff,

v.

No. 1:21-cv-00670-KWR-KBM

T. HATCH, *et al*,

Defendants.

**ORDER OF DISMISSAL**

**THIS MATTER** is before the Court following Plaintiff Matthew Wiggins’ failure to prosecute his *pro se* prisoner civil rights action. Plaintiff filed the Complaint (Doc. 1) on July 20, 2021. After several orders to cure, he filed an *in forma pauperis* motion and an inmate account statement. See Docs. 2, 4-6. *In forma pauperis* relief is only available where an inmate’s “affidavit and ... statement of ... assets [shows] that the person is unable to pay [the \$402 filing fee] or give security therefor.” 28 U.S.C. § 1915(a)(1). Plaintiff’s financial statement reflects he has \$1,070.97 in his inmate spending account. See Doc. 6 at 4. Accordingly, the Court denied leave to proceed *in forma pauperis* and directed Plaintiff to prepay the \$402 filing fee by October 7, 2021. The Order warned that the failure to timely comply may result in dismissal of this case without further notice.

Plaintiff did not pay the filing fee. Instead, he filed an Amended Complaint and a second Motion to Proceed *In Forma Pauperis*. See Docs. 8, 9. The Court will deny that motion, which contains no new financial information. The Court will also dismiss this action without prejudice pursuant to Fed. R. Civ. P. 41(b) for “failure to prosecute [and] comply with the ... court’s orders.” See *Olsen v. Mapes*, 333 F.3d 1199, 1204 n. 3 (10<sup>th</sup> Cir. 2003).

**IT IS ORDERED** that Plaintiff Matthew Wiggins' Amended Prisoner Civil Rights Complaint (**Doc. 8**) is **DISMISSED WITHOUT PREJUDICE**; and the Court will enter a judgment closing the civil case.

**IT IS SO ORDERED.**

  
**KEA W. RIGGS**  
**UNITED STATES DISTRICT JUDGE**